

# Exhibit 1



**UNITED STATES DEPARTMENT OF COMMERCE**  
**The Secretary of Commerce**  
Washington, D.C. 20230

**Supplemental Memorandum by Secretary of Commerce Wilbur Ross  
Regarding the Administrative Record in Census Litigation**

This memorandum is intended to provide further background and context regarding my March 26, 2018, memorandum concerning the reinstatement of a citizenship question to the decennial census. Soon after my appointment as Secretary of Commerce, I began considering various fundamental issues regarding the upcoming 2020 Census, including funding and content. Part of these considerations included whether to reinstate a citizenship question, which other senior Administration officials had previously raised. My staff and I thought reinstating a citizenship question could be warranted, and we had various discussions with other governmental officials about reinstating a citizenship question to the Census. As part of that deliberative process, my staff and I consulted with Federal governmental components and inquired whether the Department of Justice (DOJ) would support, and if so would request, inclusion of a citizenship question as consistent with and useful for enforcement of the Voting Rights Act.

Ultimately, on December 12, 2017, DOJ sent a letter formally requesting that the Census Bureau reinstate on the 2020 Census questionnaire a question regarding citizenship. My March 26, 2018, memorandum described the thorough assessment process that the Department of Commerce conducted following receipt of the DOJ letter, the evidence and arguments I considered, and the factors I weighed in making my decision to include the citizenship question on the 2020 Census.

A handwritten signature in black ink, which appears to read "Wilbur Ross", is positioned above the printed name.

Wilbur Ross  
June 21, 2018

**From:** Comstock, Earl (Federal) [REDACTED]  
**Sent:** 5/2/2017 2:19:11 PM  
**To:** Wilbur Ross [REDACTED]  
**CC:** Herbst, Ellen (Federal) [REDACTED]  
**Subject:** Re: Census

I agree Mr Secretary.

On the citizenship question we will get that in place. The broad topics were what were sent to Congress earlier this year as required. It is next March -- in 2018 -- when the final 2020 decennial Census questions are submitted to Congress. We need to work with Justice to get them to request that citizenship be added back as a census question, and we have the court cases to illustrate that DoJ has a legitimate need for the question to be included. I will arrange a meeting with DoJ staff this week to discuss.

Earl

Sent from my iPhone

> On May 2, 2017, at 10:04 AM, Wilbur Ross [REDACTED] wrote:  
>

[REDACTED]  
[REDACTED] worst of all they emphasize  
that they have settled with congress on the questions to be asked. I am mystified why nothing have been  
done in response to my months old request that we include the citizenship question. Why not? [REDACTED]  
[REDACTED]

> Sent from my iPhone

**From:** Wilbur Ross [PII]  
**Sent:** 8/10/2017 7:38:25 PM  
**To:** Comstock, Earl (Federal); [PII]  
**Subject:** Re: Census Matter

I would like to be briefed on Friday by phone. I probably will need an hour or so to study the memo first. We should be very careful about everything, whether or not it is likely to end up in the SC. WLR

Sent from my iPad

> On Aug 9, 2017, at 10:24 AM, Comstock, Earl (Federal) [PII] wrote:

>  
> PREDECISIONAL AND ATTORNEY-CLIENT PRIVILEGED

> Mr. Secretary - we are preparing a memo and full briefing for you on the citizenship question. The memo will be ready by Friday, and we can do the briefing whenever you are back in the office. Since this issue will go to the Supreme Court we need to be diligent in preparing the administrative record.

> Earl

> On 8/8/17, 1:20 PM, "Wilbur Ross" [PII] wrote:

> [Not Responsive / Deliberative]

[Not Responsive / Deliberative] Were you on the call this morning about Census? They seem dig in about not solving the citizenship question and that raises the question of where is the DOJ in their analysis? If they still have not come to a conclusion please let me know your contact person and I will call the AG. Wilbur Ross

> Sent from my iPhone

>> On Aug 8, 2017, at 10:52 AM, Comstock, Earl (Federal) [PII] wrote:

>> [Not Responsive / Deliberative]

>

September 8, 2017

To: Secretary Wilbur Ross

Fr: Earl Comstock

Re: Census Discussions with DoJ

In early May Eric Branstad put me in touch with Mary Blanche Hankey as the White House liaison in the Department of Justice. Mary Blanche worked for AG Sessions in his Senate office, and came with him to the Department of Justice. We met in person to discuss the citizenship question. She said she would locate someone at the Department who could address the issue. A few days later she directed me to James McHenry in the Department of Justice.

I spoke several times with James McHenry by phone, and after considering the matter further James said that Justice staff did not want to raise the question given the difficulties Justice was encountering in the press at the time (the whole Comey matter). James directed me to Gene Hamilton at the Department of Homeland Security.

Gene and I had several phone calls to discuss the matter, and then Gene relayed that after discussion DHS really felt that it was best handled by the Department of Justice.

At that point the conversation ceased and I asked James Uthmeier, who had by then joined the Department of Commerce Office of General Counsel, to look into the legal issues and how Commerce could add the question to the Census itself.

**To:** Kelley, Karen (Federal) [PII]  
**From:** Willard, Aaron (Federal)  
**Sent:** Mon 10/9/2017 9:03:50 PM  
**Importance:** Normal  
**Subject:** Notes from drive  
**Received:** Mon 10/9/2017 9:03:52 PM

- 1) must come from DOJ
- 2) court cases you can hang your hat on
- 3) every Census since 1880, except 2000

Sent from my iPhone

**To:** Comstock, Earl (Federal); Herbst, Ellen (Federal)[EHerbst@doc.gov]  
**From:** Langdon, David (Federal)  
**Sent:** Wed 5/24/2017 9:38:29 PM  
**Importance:** High  
**Subject:** Counting of illegal immigrants  
**Received:** Wed 5/24/2017 9:38:30 PM  
Crawford Letter & DOJ Memo.pdf

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Earl and Ellen,

Long story short is that the counting of illegal immigrants (or of the larger group of non-citizens) has a solid and fairly long legal history.

The most recent case was Louisiana v. Bryson. In a lawsuit filed directly in the Supreme Court, without prior action in lower courts, the state contended that it has been denied one potential seat in the House because illegal immigrants are counted in census totals, putting Louisiana at a disadvantage in House apportionment. The motion for leave to file was denied.

A second piece of interest in a Bush 41 era DOJ opinion that proposed legislation to exclude illegal aliens from the decennial census was illegal.

Let me know if you need additional background on the legal arguments.

Dave

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**From:** Ron.S.Jarmin@census.gov [Ron.S.Jarmin@census.gov]  
**Sent:** 2/14/2018 12:34:54 AM  
**To:** Kelley, Karen (Federal) [PII]  
**Subject:** Re: Question

That works  
Sent from my iPhone

On Feb 13, 2018, at 7:12 PM, Kelley, Karen (Federal) [PII] wrote:  
Around 8:30 ish.  
Sent from my iPhone

On Feb 13, 2018, at 5:45 PM, Ron S Jarmin (CENSUS/ADEP FED) <[Ron.S.Jarmin@census.gov](mailto:Ron.S.Jarmin@census.gov)> wrote:  
Sure. What time?  
Sent from my iPhone

On Feb 13, 2018, at 4:54 PM, Kelley, Karen (Federal) [PII] wrote:  
Thanks. Can we talk early tomorrow morning???

Sent from my iPhone

On Feb 13, 2018, at 3:48 PM, Ron S Jarmin (CENSUS/ADEP FED) <[Ron.S.Jarmin@census.gov](mailto:Ron.S.Jarmin@census.gov)> wrote:  
Please see the thread below. Appears no one at AEI willing to speak in favor of putting question on the 2020.

**Ron Jarmin, PhD.**  
Associate Director for Economic Programs, and  
Performing the Non-Exclusive Functions and Duties of the Director  
U.S. Census Bureau  
Office 301.763.1858, [Ron.S.Jarmin@census.gov](mailto:Ron.S.Jarmin@census.gov)  
[census.gov](http://census.gov) Connect with us on [Social Media](#)

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**From:** Ron S Jarmin (CENSUS/ADEP FED)  
**Sent:** Tuesday, February 13, 2018 3:46 PM  
**To:** Michael R. Strain  
**Subject:** Re: Question

Thanks Michael. We are trying to find someone who can give a professional expression of support for the proposal in contrast to the many folks we can find to give professional statements against the proposal. Interesting, but perhaps not so surprising, that no one at AEI is willing to do that.

Thanks for your help.



**Ron Jarmin, PhD.**

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[census.gov](http://census.gov) Connect with us on [Social Media](#)

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**From:** Michael R. Strain <[Michael.Strain@AEI.org](mailto:Michael.Strain@AEI.org)>

**Sent:** Tuesday, February 13, 2018 3:31:38 PM

**To:** Ron S Jarmin (CENSUS/ADEP FED)

**Subject:** RE: Question

Hi Ron,

Great to hear from you. I hope you are well.

None of my colleagues at AEI would speak favorably about the proposal. Is it important that the person actually be in favor of the proposal?

All the best,

Michael

**From:** Ron S Jarmin (CENSUS/ADEP FED) [<mailto:Ron.S.Jarmin@census.gov>]

**Sent:** Tuesday, February 13, 2018 1:48 PM

**To:** Michael R. Strain <[REDACTED] PII >

**Subject:** Question

Hi Michael,

Hope all is well. We are trying to set up some meetings for Secretary Ross to discuss the proposed citizenship question on the 2020 Census with interested stakeholders. Most stakeholders will speak against the proposal. We're looking to find someone thoughtful who can speak to the pros of adding such a question or perhaps addressing the fundamental data need some other way (e.g., admin records).

Do you know of anyone at AEI, or elsewhere, that could do this sometime over the next couple weeks?

Thanks

**Ron Jarmin, PhD.**

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[census.gov](http://census.gov) Connect with us on [Social Media](#)